



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case Reference** : **LON/00BD/F77/2023/0027**

**Property** : **First Floor Flat, 64 Church Road,  
Richmond, Surrey, TW10 6LN**

**Applicant** : **Markard Estate Company Ltd**

**Representative** : **Cedar Estates**

**Respondent** : **Miss J Wilson**

**Representative** : **N/A**

**Type of Application** : **Decision as to fair rent (Rent Act  
1977, Schedule 11)**

**Tribunal Members** : **Tribunal Judge Richard Percival  
Mrs Alison Flynn MA MRICS**

**Date of Decision and  
Issue of Reasons** : **27 March 2023**

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**REASONS**

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## **The application**

1. ON 20 October 2022, the Respondent applied for a new rent to be registered of £ 2,000 per month. The rent before the application was £1,080 per month. The Rent Officer assessed the fair rent at £1,100 per month. The cap set by Rent Acts (Maximum Fair Rent) Order 1999 was not disapplied, but the Rent Officer did not rely on the cap.

## **Inspection**

2. In line with the current practice of the Tribunal, we did not inspect the property.

## **The law**

3. When determining a fair rent the Tribunal, in accordance with the Rent Act 1977, section 70, has regard to the circumstances including the age, location and state of repair of the property. We also disregard the effect of (a) relevant tenant's improvements and (b) disrepair or other defect attributable to the tenant or any predecessor in title under the regulated tenancy, on the rental value of the property. In *Spath Holme Ltd v Chairman of the Greater Manchester etc. Committee* (1995) 28 HLR 107 and *Curtis v London Rent Assessment Committee* [1999] QB 92 the Court of Appeal emphasised that ordinarily a fair rent is the market rent for the property discounted for "scarcity," that is, that element, if any, of the market rent, that is attributable to there being a significant shortage of similar properties in the wider locality available for letting on similar terms (other than as to rent) to that of the regulated tenancy. For the purposes of determining the market rent, assured tenancy market rents are usually appropriate comparables. These rents may have to be adjusted where necessary to reflect any relevant differences between those comparables and the subject property.
4. The financial circumstances or costs of the parties are not taken into account in assessing a fair rent.

## **Determination**

5. The Applicant submitted a list of properties, but with only the most rudimentary details as to their nature, state, or exact location. We did not find this list helpful. If a landlord wishes to claim comparable properties in aid, then it must provide the sort of detail that is found in a listing on a marketing website or similar.
6. The Tribunal did consider evidence of comparable properties by consulting property websites. From these comparables, we concluded that, had the property been in good marketable condition, the rent would be £350 per week. This was a conclusion only slightly at variance with that arrived at by the Rent Officer, who gave a figure of £357.69.
7. We did not undertake our own inspection of the property, but relied on the account given in the rent calculation by the Rent Officer. This notes,

first, that the tenant is responsible for internal decoration, unlike the normal division of responsibility under a market rental on an assured shorthold tenancy. Secondly, and most importantly, the Rent Officer noted that the property had been refurbished last as long ago as 1998. It was noted that in the intervening 25 years, there had been no improvements.

8. While we had no more detailed information, we considered that the approach of the Rent Officer in reducing the market rent by 20% to reflect the state of the property was overwhelmingly likely to be justified in these circumstances, and we adopted that approach.
9. However, the Rent Officer then only deducted a further 8% for scarcity. We adopted the conventional approach of the Tribunal that there was more substantial scarcity in the locality of Greater London than that figure took into account. Accordingly, we made a deduction of 20% from the adjusted market rent.
10. The result was the fair rent we found (expressed as a monthly rent). It will be noted that the difference to that arrived at by the Rent Officer is overwhelmingly a result of the different approach to scarcity taken by the Tribunal.
11. We calculated the capped rent under Rent Act (Maximum Fair Rent Order) 1999, the results of which can be seen in the short form decision already provided to the parties, which is substantially higher than the fair rent we have determined. The Rent Officer noted the cap as being the same as the figure at which he or she arrived by making adjustments to the open market rent. We did not attempt to calculate the capped rent as at the time that the Rent Officer did so, but we doubt that the figure given in the calculation form is correct.

**Name:** Tribunal Judge Professor Richard Percival    **Date:** 27 March 2023